

AN ACT in relation to health care.

Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:

Section 5. The Mental Health and Developmental  
Disabilities Administrative Act is amended by changing  
Sections 4, 7, and 15 as follows:

(20 ILCS 1705/4) (from Ch. 91 1/2, par. 100-4)

Sec. 4. Supervision of facilities and services;  
quarterly reports.

(a) To exercise executive and administrative supervision  
over all facilities, divisions, programs and services now  
existing or hereafter acquired or created under the  
jurisdiction of the Department, including, but not limited  
to, the following:

The Alton Mental Health Center, at Alton

The Clyde L. Choate Mental Health and Developmental  
Center, at Anna

The Chester Mental Health Center, at Chester

The Chicago-Read Mental Health Center, at Chicago

The Elgin Mental Health Center, at Elgin

The Metropolitan Children and Adolescents Center, at  
Chicago

The Jacksonville Developmental Center, at  
Jacksonville

The Governor Samuel H. Shapiro Developmental Center,  
at Kankakee

The Tinley Park Mental Health Center, at Tinley Park

The Warren G. Murray Developmental Center, at  
Centralia

The Jack Mabley Developmental Center, at Dixon

The Lincoln Developmental Center, at Lincoln

The H. Douglas Singer Mental Health and  
Developmental Center, at Rockford

The John J. Madden Mental Health Center, at Chicago

The George A. Zeller Mental Health Center, at Peoria

The Andrew McFarland Mental Health Center, at  
Springfield

The Adolf Meyer Mental Health Center, at Decatur

The William W. Fox Developmental Center, at Dwight

The Elisabeth Ludeman Developmental Center, at Park  
Forest

The William A. Howe Developmental Center, at Tinley  
Park

The Ann M. Kiley Developmental Center, at Waukegan.

(b) Beginning not later than July 1, 1977, the  
Department shall cause each of the facilities under its  
jurisdiction which provide in-patient care to comply with  
standards, rules and regulations of the Department of Public  
Health prescribed under Section 6.05 of the Hospital  
Licensing Act.

(c) The Department shall issue quarterly reports on  
admissions, deflections, discharges, bed closures,  
staff-resident ratios, census, and average length of stay,  
and any adverse federal certification or accreditation  
findings, if any, for each State-operated facility for the  
mentally ill and developmentally disabled.

(Source: P.A. 91-357, eff. 7-29-99; 91-652, eff. 12-1-99.)

(20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

Sec. 7. To receive and provide the highest possible  
quality of humane and rehabilitative care and treatment to  
all persons admitted or committed or transferred in  
accordance with law to the facilities, divisions, programs,  
and services under the jurisdiction of the Department. No  
resident of another state shall be received or retained to

the exclusion of any resident of this State. No resident of another state shall be received or retained to the exclusion of any resident of this State. All recipients of 17 years of age and under in residence in a Department facility other than a facility for the care of the mentally retarded shall be housed in quarters separated from older recipients except for: (a) recipients who are placed in medical-surgical units because of physical illness; and (b) recipients between 13 and 18 years of age who need temporary security measures.

All recipients in a Department facility shall be given a dental examination by a licensed dentist or registered dental hygienist at least once every 18 months and shall be assigned to a dentist for such dental care and treatment as is necessary.

All medications administered to recipients shall be administered only by those persons who are legally qualified to do so by the laws of the State of Illinois. Medication shall not be prescribed until a physical and mental examination of the recipient has been completed. If, in the clinical judgment of a physician, it is necessary to administer medication to a recipient before the completion of the physical and mental examination, he may prescribe such medication but he must file a report with the facility director setting forth the reasons for prescribing such medication within 24 hours of the prescription. A copy of the report shall be part of the recipient's record.

No later than January 1, 2005, the Department shall adopt a model protocol and forms for recording all patient diagnosis, care, and treatment at each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department. The model protocol and forms shall be used by each facility unless the Department determines that equivalent alternatives justify an exemption.

Every facility under the jurisdiction of the Department shall maintain a copy of each report of suspected abuse or neglect of the patient. Copies of those reports shall be made available to the State Auditor General in connection with his biennial program audit of the facility as required by Section 3-2 of the Illinois State Auditing Act.

No later than January 1 2004, the Department shall report to the Governor and the General Assembly whether each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department and all services provided in those facilities comply with all of the applicable standards adopted by the Social Security Administration under Subchapter XVIII (Medicare) of the Social Security Act (42 U.S.C. 1395-1395ccc), if the facility and services may be eligible for federal financial participation under that federal law. For those facilities that do comply, the report shall indicate what actions need to be taken to ensure continued compliance. For those facilities that do not comply, the report shall indicate what actions need to be taken to bring each facility into compliance.

(Source: P.A. 86-922; 86-1013; 86-1475.)

(20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

Sec. 15. Before any person is released from a facility operated by the State pursuant to an absolute discharge or a conditional discharge from hospitalization under this Act, the facility director of the facility in which such person is hospitalized shall determine that such person is not currently in need of hospitalization and:

(a) is able to live independently in the community;

or

(b) requires further oversight and supervisory care for which arrangements have been made with responsible

relatives or supervised residential program approved by the Department; or

(c) requires further personal care or general oversight as defined by the Nursing Home Care Act, for which placement arrangements have been made with a suitable family home or other licensed facility approved by the Department under this Section; or

(d) requires community mental health services for which arrangements have been made with a community mental health provider in accordance with criteria, standards, and procedures promulgated by rule.

Such determination shall be made in writing and shall become a part of the facility record of such absolutely or conditionally discharged person. When the determination indicates that the condition of the person to be granted an absolute discharge or a conditional discharge is described under subparagraph (c) or (d) of this Section, the name and address of the continuing care facility or home to which such person is to be released shall be entered in the facility record. Where a discharge from a mental health facility is made under subparagraph (c), the Department shall assign the person so discharged to an existing community based not-for-profit agency for participation in day activities suitable to the person's needs, such as but not limited to social and vocational rehabilitation, and other recreational, educational and financial activities unless the community based not-for-profit agency is unqualified to accept such assignment. Where the clientele of any not-for-profit agency increases as a result of assignments under this amendatory Act of 1977 by more than 3% over the prior year, the Department shall fully reimburse such agency for the costs of providing services to such persons in excess of such 3% increase. The Department shall keep written records detailing how many persons have been assigned to a community based

not-for-profit agency and how many persons were not so assigned because the community based agency was unable to accept the assignments, in accordance with criteria, standards, and procedures promulgated by rule. Whenever a community based agency is found to be unable to accept the assignments, the name of the agency and the reason for the finding shall be included in the report.

Insofar as desirable in the interests of the former recipient, the facility, program or home in which the discharged person is to be placed shall be located in or near the community in which the person resided prior to hospitalization or in the community in which the person's family or nearest next of kin presently reside. Placement of the discharged person in facilities, programs or homes located outside of this State shall not be made by the Department unless there are no appropriate facilities, programs or homes available within this State. Out-of-state placements shall be subject to return of recipients so placed upon the availability of facilities, programs or homes within this State to accommodate these recipients, except where placement in a contiguous state results in locating a recipient in a facility or program closer to the recipient's home or family. If an appropriate facility or program becomes available equal to or closer to the recipient's home or family, the recipient shall be returned to and placed at the appropriate facility or program within this State.

To place any person who is under a program of the Department at board in a suitable family home or in such other facility or program as the Department may consider desirable. The Department may place in licensed nursing homes, sheltered care homes, or homes for the aged those persons whose behavioral manifestations and medical and nursing care needs are such as to be substantially indistinguishable from persons already living in such

facilities. Prior to any placement by the Department under this Section, a determination shall be made by the personnel of the Department, as to the capability and suitability of such facility to adequately meet the needs of the person to be discharged. When specialized programs are necessary in order to enable persons in need of supervised living to develop and improve in the community, the Department shall place such persons only in specialized residential care facilities which shall meet Department standards including restricted admission policy, special staffing and programming for social and vocational rehabilitation, in addition to the requirements of the appropriate State licensing agency. The Department shall not place any new person in a facility the license of which has been revoked or not renewed on grounds of inadequate programming, staffing, or medical or adjunctive services, regardless of the pendency of an action for administrative review regarding such revocation or failure to renew. Before the Department may transfer any person to a licensed nursing home, sheltered care home or home for the aged or place any person in a specialized residential care facility the Department shall notify the person to be transferred, or a responsible relative of such person, in writing, at least 30 days before the proposed transfer, with respect to all the relevant facts concerning such transfer, except in cases of emergency when such notice is not required. If either the person to be transferred or a responsible relative of such person objects to such transfer, in writing to the Department, at any time after receipt of notice and before the transfer, the facility director of the facility in which the person was a recipient shall immediately schedule a hearing at the facility with the presence of the facility director, the person who objected to such proposed transfer, and a psychiatrist who is familiar with the record of the person to be transferred. Such person

to be transferred or a responsible relative may be represented by such counsel or interested party as he may appoint, who may present such testimony with respect to the proposed transfer. Testimony presented at such hearing shall become a part of the facility record of the person-to-be-transferred. The record of testimony shall be held in the person-to-be-transferred's record in the central files of the facility. If such hearing is held a transfer may only be implemented, if at all, in accordance with the results of such hearing. Within 15 days after such hearing the facility director shall deliver his findings based on the record of the case and the testimony presented at the hearing, by registered or certified mail, to the parties to such hearing. The findings of the facility director shall be deemed a final administrative decision of the Department. For purposes of this Section, "case of emergency" means those instances in which the health of the person to be transferred is imperiled and the most appropriate mental health care or medical care is available at a licensed nursing home, sheltered care home or home for the aged or a specialized residential care facility.

Prior to placement of any person in a facility under this Section the Department shall ensure that an appropriate training plan for staff is provided by the facility. Said training may include instruction and demonstration by Department personnel qualified in the area of mental illness or mental retardation, as applicable to the person to be placed. Training may be given both at the facility from which the recipient is transferred and at the facility receiving the recipient, and may be available on a continuing basis subsequent to placement. In a facility providing services to former Department recipients, training shall be available as necessary for facility staff. Such training will be on a continuing basis as the needs of the facility

and recipients change and further training is required.

The Department shall not place any person in a facility which does not have appropriately trained staff in sufficient numbers to accommodate the recipient population already at the facility. As a condition of further or future placements of persons, the Department shall require the employment of additional trained staff members at the facility where said persons are to be placed. The Secretary, or his or her designate, shall establish written guidelines for placement of persons in facilities under this Act. The Department shall keep written records detailing which facilities have been determined to have staff who have been appropriately trained by the Department and all training which it has provided or required under this Section.

Bills for the support for a person boarded out shall be payable monthly out of the proper maintenance funds and shall be audited as any other accounts of the Department. If a person is placed in a facility or program outside the Department, the Department may pay the actual costs of residence, treatment or maintenance in such facility and may collect such actual costs or a portion thereof from the recipient or the estate of a person placed in accordance with this Section.

Other than those placed in a family home the Department shall cause all persons who are placed in a facility, as defined by the Nursing Home Care Act, or in designated community living situations or programs, to be visited at least once during the first month following placement, and once every month thereafter for the first year following placement when indicated, but at least quarterly. After the first year, the Department shall determine at what point the appropriate licensing entity for the facility or designated community living situation or program will assume the responsibility of ensuring that appropriate services are

being provided to the resident. Once that responsibility is assumed, the Department may discontinue such visits. If a long term care facility has periodic care plan conferences, the visitor may participate in those conferences, if such participation is approved by the resident or the resident's guardian. Visits shall be made by qualified and trained Department personnel, or their designee, in the area of mental health or developmental disabilities applicable to the person visited, and shall be made on a more frequent basis when indicated. The Department may not use as designee any personnel connected with or responsible to the representatives of any facility in which persons who have been transferred under this Section are placed. In the course of such visit there shall be consideration of the following areas, but not limited thereto: effects of transfer on physical and mental health of the person, sufficiency of nursing care and medical coverage required by the person, sufficiency of staff personnel and ability to provide basic care for the person, social, recreational and programmatic activities available for the person, and other appropriate aspects of the person's environment.

A report containing the above observations shall be made to the Department, to the licensing agency, and to any other appropriate agency subsequent to each visitation. The report shall contain recommendations to improve the care and treatment of the resident, as necessary, which shall be reviewed by the facility's interdisciplinary team and the resident or the resident's legal guardian. ~~At the conclusion of one year following absolute or conditional discharge, or a longer period of time if required by the Department, the Department may terminate the visitation requirements of this Section as to a person placed in accordance with this Section, by filing a written statement of termination setting forth reasons to substantiate the termination of visitations~~

~~in--the--person's--file,--and--sending--a--copy--thereof--to--the  
person,--and--to--his--guardian--or--next--of--kin.~~

Upon the complaint of any person placed in accordance with this Section or any responsible citizen or upon discovery that such person has been abused, neglected, or improperly cared for, or that the placement does not provide the type of care required by the recipient's current condition, the Department immediately shall investigate, and determine if the well-being, health, care, or safety of any person is affected by any of the above occurrences, and if any one of the above occurrences is verified, the Department shall remove such person at once to a facility of the Department or to another facility outside the Department, provided such person's needs can be met at said facility. The Department may also provide any person placed in accordance with this Section who is without available funds, and who is permitted to engage in employment outside the facility, such sums for the transportation, and other expenses as may be needed by him until he receives his wages for such employment.

The Department shall promulgate rules and regulations governing the purchase of care for persons who are wards of or who are receiving services from the Department. Such rules and regulations shall apply to all monies expended by any agency of the State of Illinois for services rendered by any person, corporate entity, agency, governmental agency or political subdivision whether public or private outside of the Department whether payment is made through a contractual, per-diem or other arrangement. No funds shall be paid to any person, corporation, agency, governmental entity or political subdivision without compliance with such rules and regulations.

The rules and regulations governing purchase of care shall describe categories and types of service deemed

appropriate for purchase by the Department.

Any provider of services under this Act may elect to receive payment for those services, and the Department is authorized to arrange for that payment, by means of direct deposit transmittals to the service provider's account maintained at a bank, savings and loan association, or other financial institution. The financial institution shall be approved by the Department, and the deposits shall be in accordance with rules and regulations adopted by the Department.

(Source: P.A. 89-507, eff. 7-1-97; 90-423, eff. 8-15-97.)

Section 10. The Abused and Neglected Long Term Care Facility Residents Reporting Act is amended by changing Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

(210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.2. Inspector General.

(a) The Governor shall appoint, and the Senate shall confirm, an Inspector General. The Inspector General shall be appointed for a term of 4 years and who shall function within the Department of Human Services and report to the Secretary of Human Services and the Governor. The Inspector General shall function independently within the Department of Human Services with respect to the operations of the office, including the performance of investigations and issuance of findings and recommendations. The appropriation for the Office of Inspector General shall be separate from the overall appropriation for the Department of Human Services. The Inspector General shall investigate reports of suspected abuse or neglect (as those terms are defined in Section 3 of this Act) of patients or residents in any mental health or developmental disabilities facility operated by the

Department of Human Services and shall have authority to investigate and take immediate action on reports of abuse or neglect of recipients, whether patients or residents, in any mental health or developmental disabilities facility or program that is licensed or certified by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or that is funded by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) and is not licensed or certified by any agency of the State. At the specific, written request of an agency of the State other than the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities), the Inspector General may cooperate in investigating reports of abuse and neglect of persons with mental illness or persons with developmental disabilities. The Inspector General shall have no supervision over or involvement in routine, programmatic, licensure, or certification operations of the Department of Human Services or any of its funded agencies.

The Inspector General shall promulgate rules establishing minimum requirements for reporting allegations of abuse and neglect and initiating, conducting, and completing investigations. The promulgated rules shall clearly set forth that in instances where 2 or more State agencies could investigate an allegation of abuse or neglect, the Inspector General shall not conduct an investigation that is redundant to an investigation conducted by another State agency. The rules shall establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but need not be limited to, site visits, telephone contacts, or requests for written responses from agencies. The rules shall also clarify how the Office of the Inspector General shall interact with the

licensing unit of the Department of Human Services in investigations of allegations of abuse or neglect. Any allegations or investigations of reports made pursuant to this Act shall remain confidential until a final report is completed. The resident or patient who allegedly was abused or neglected and his or her legal guardian shall be informed by the facility or agency of the report of alleged abuse or neglect. Final reports regarding unsubstantiated or unfounded allegations shall remain confidential, except that final reports may be disclosed pursuant to Section 6 of this Act.

~~The--Inspector-General-shall-be-appointed-for-a-term-of-4 years-~~

When the Office of the Inspector General has substantiated a case of abuse or neglect, the Inspector General shall include in the final report any mitigating or aggravating circumstances that were identified during the investigation. Upon determination that a report of neglect is substantiated, the Inspector General shall then determine whether such neglect rises to the level of egregious neglect.

(b) The Inspector General shall within 24 hours after receiving a report of suspected abuse or neglect determine whether the evidence indicates that any possible criminal act has been committed. If he determines that a possible criminal act has been committed, or that special expertise is required in the investigation, he shall immediately notify the Department of State Police. The Department of State Police shall investigate any report indicating a possible murder, rape, or other felony. All investigations conducted by the Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

(b-5) The Inspector General shall make a determination to accept or reject a preliminary report of the investigation of alleged abuse or neglect based on established

investigative procedures. Notice of the Inspector General's determination must be given to the person who claims to be the victim of the abuse or neglect, to the person or persons alleged to have been responsible for abuse or neglect, and to the facility or agency. The facility or agency or the person or persons alleged to have been responsible for the abuse or neglect and the person who claims to be the victim of the abuse or neglect may request clarification or reconsideration based on additional information. For cases where the allegation of abuse or neglect is substantiated, the Inspector General shall require the facility or agency to submit a written response. The written response from a facility or agency shall address in a concise and reasoned manner the actions that the agency or facility will take or has taken to protect the resident or patient from abuse or neglect, prevent reoccurrences, and eliminate problems identified and shall include implementation and completion dates for all such action.

(c) The Inspector General shall, within 10 calendar days after the transmittal date of a completed investigation where abuse or neglect is substantiated or administrative action is recommended, provide a complete report on the case to the Secretary of Human Services and to the agency in which the abuse or neglect is alleged to have happened. The complete report shall include a written response from the agency or facility operated by the State to the Inspector General that addresses in a concise and reasoned manner the actions that the agency or facility will take or has taken to protect the resident or patient from abuse or neglect, prevent reoccurrences, and eliminate problems identified and shall include implementation and completion dates for all such action. The Secretary of Human Services shall accept or reject the response and establish how the Department will determine whether the facility or program followed the

approved response. The Secretary may require Department personnel to visit the facility or agency for training, technical assistance, programmatic, licensure, or certification purposes. Administrative action, including sanctions, may be applied should the Secretary reject the response or should the facility or agency fail to follow the approved response. Within 30 days after the Secretary has approved a response, the facility or agency making the response shall provide an implementation report to the Inspector General on the status of the corrective action implemented. Within 60 days after the Secretary has approved the response, the facility or agency shall send notice of the completion of the corrective action or shall send an updated implementation report. The facility or agency shall continue sending updated implementation reports every 60 days until the facility or agency sends a notice of the completion of the corrective action. The Inspector General shall review any implementation plan that takes more than 120 days. The Inspector General shall monitor compliance through a random review of completed corrective actions. This monitoring may include, but need not be limited to, site visits, telephone contacts, or requests for written documentation from the facility or agency to determine whether the facility or agency is in compliance with the approved response. The facility or agency shall inform the resident or patient and the legal guardian whether the reported allegation was substantiated, unsubstantiated, or unfounded. There shall be an appeals process for any person or agency that is subject to any action based on a recommendation or recommendations.

(d) The Inspector General may recommend to the Departments of Public Health and Human Services sanctions to be imposed against mental health and developmental disabilities facilities under the jurisdiction of the Department of Human Services for the protection of residents,

including appointment of on-site monitors or receivers, transfer or relocation of residents, and closure of units. The Inspector General may seek the assistance of the Attorney General or any of the several State's attorneys in imposing such sanctions. Whenever the Inspector General issues any recommendations to the Secretary of Human Services, the Secretary shall provide a written response.

(e) The Inspector General shall establish and conduct periodic training programs for Department of Human Services employees concerning the prevention and reporting of neglect and abuse.

(f) The Inspector General shall at all times be granted access to any mental health or developmental disabilities facility operated by the Department of Human Services, shall establish and conduct unannounced site visits to those facilities at least once annually, and shall be granted access, for the purpose of investigating a report of abuse or neglect, to the records of the Department of Human Services and to any facility or program funded by the Department of Human Services that is subject under the provisions of this Section to investigation by the Inspector General for a report of abuse or neglect.

(g) Nothing in this Section shall limit investigations by the Department of Human Services that may otherwise be required by law or that may be necessary in that Department's capacity as the central administrative authority responsible for the operation of State mental health and developmental disability facilities.

(g-5) After notice and an opportunity for a hearing that is separate and distinct from the Office of the Inspector General's appeals process as implemented under subsection (c) of this Section, the Inspector General shall report to the Department of Public Health's nurse aide registry under Section 3-206.01 of the Nursing Home Care Act the identity of

individuals against whom there has been a substantiated finding of physical or sexual abuse or egregious neglect of a service recipient.

Nothing in this subsection shall diminish or impair the rights of a person who is a member of a collective bargaining unit pursuant to the Illinois Public Labor Relations Act or pursuant to any federal labor statute. An individual who is a member of a collective bargaining unit as described above shall not be reported to the Department of Public Health's nurse aide registry until the exhaustion of that individual's grievance and arbitration rights, or until 3 months after the initiation of the grievance process, whichever occurs first, provided that the Department of Human Services' hearing under subsection (c), that is separate and distinct from the Office of the Inspector General's appeals process, has concluded. Notwithstanding anything hereinafter or previously provided, if an action taken by an employer against an individual as a result of the circumstances that led to a finding of physical or sexual abuse or egregious neglect is later overturned under a grievance or arbitration procedure provided for in Section 8 of the Illinois Public Labor Relations Act or under a collective bargaining agreement, the report must be removed from the registry.

The Department of Human Services shall promulgate or amend rules as necessary or appropriate to establish procedures for reporting to the registry, including the definition of egregious neglect, procedures for notice to the individual and victim, appeal and hearing procedures, and petition for removal of the report from the registry. The portion of the rules pertaining to hearings shall provide that, at the hearing, both parties may present written and oral evidence. The Department shall be required to establish by a preponderance of the evidence that the Office of the Inspector General's finding of physical or sexual abuse or

egregious neglect warrants reporting to the Department of Public Health's nurse aide registry under Section 3-206.01 of the Nursing Home Care Act.

Notice to the individual shall include a clear and concise statement of the grounds on which the report to the registry is based and notice of the opportunity for a hearing to contest the report. The Department of Human Services shall provide the notice by certified mail to the last known address of the individual. The notice shall give the individual an opportunity to contest the report in a hearing before the Department of Human Services or to submit a written response to the findings instead of requesting a hearing. If the individual does not request a hearing or if after notice and a hearing the Department of Human Services finds that the report is valid, the finding shall be included as part of the registry, as well as a brief statement from the reported individual if he or she chooses to make a statement. The Department of Public Health shall make available to the public information reported to the registry. In a case of inquiries concerning an individual listed in the registry, any information disclosed concerning a finding of abuse or neglect shall also include disclosure of the individual's brief statement in the registry relating to the reported finding or include a clear and accurate summary of the statement.

At any time after the report of the registry, an individual may petition the Department of Human Services for removal from the registry of the finding against him or her. Upon receipt of such a petition, the Department of Human Services shall conduct an investigation and hearing on the petition. Upon completion of the investigation and hearing, the Department of Human Services shall report the removal of the finding to the registry unless the Department of Human Services determines that removal is not in the public

interest.

~~{h}--This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01; 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

(210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.3. Quality Care Board. There is created, within the ~~Department of Human Services~~<sup>1</sup> Office of the Inspector General, a Quality Care Board to be composed of 7 members appointed by the Governor with the advice and consent of the Senate. One of the members shall be designated as chairman by the Governor. Of the initial appointments made by the Governor, 4 Board members shall each be appointed for a term of 4 years and 3 members shall each be appointed for a term of 2 years. Upon the expiration of each member's term, a successor shall be appointed for a term of 4 years. In the case of a vacancy in the office of any member, the Governor shall appoint a successor for the remainder of the unexpired term.

Members appointed by the Governor shall be qualified by professional knowledge or experience in the area of law, investigatory techniques, or in the area of care of the mentally ill or developmentally disabled. Two members appointed by the Governor shall be persons with a disability or a parent of a person with a disability. Members shall serve without compensation, but shall be reimbursed for expenses incurred in connection with the performance of their duties as members.

The Board shall meet quarterly, and may hold other meetings on the call of the chairman. Four members shall constitute a quorum. The Board may adopt rules and regulations it deems necessary to govern its own procedures.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

(210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.4. Scope and function of the Quality Care Board.

The Board shall monitor and oversee the operations, policies, and procedures of the Inspector General to assure the prompt and thorough investigation of allegations of neglect and abuse. In fulfilling these responsibilities, the Board may do the following:

(1) Provide independent, expert consultation to the Inspector General on policies and protocols for investigations of alleged neglect and abuse.

(2) Review existing regulations relating to the operation of facilities under the control of the Department of Human Services.

(3) Advise the Inspector General as to the content of training activities authorized under Section 6.2.

(4) Recommend policies concerning methods for improving the intergovernmental relationships between the office of the Inspector General and other State or federal agencies.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

(210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.5. Investigators. ~~Within 60 days after the effective date of this amendatory Act of 1992,~~ The Inspector General shall establish a comprehensive program to ensure that every person employed or newly hired to conduct investigations shall receive training on an on-going basis concerning investigative techniques, communication skills, and the appropriate means of contact with persons admitted or

committed to the mental health or developmental disabilities facilities under the jurisdiction of the Department of Human Services.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

(210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.6. Subpoenas; testimony; penalty. The Inspector General shall have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Act, provided that the power to subpoena or to compel the production of books and papers shall not extend to the person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Act. Mental health records of patients shall be confidential as provided under the Mental Health and Developmental Disabilities Confidentiality Act. Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to an investigation under this Act, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Act is guilty of a Class A misdemeanor.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

(210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.7. Annual report. The Inspector General shall provide to the General Assembly and the Governor, no later than January 1 of each year, a summary of reports and

investigations made under this Act for the prior fiscal year with respect to residents of institutions under the jurisdiction of the Department of Human Services. The report shall detail the imposition of sanctions and the final disposition of those recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The report shall also include a trend analysis of the number of reported allegations and their disposition, for each facility and Department-wide, for the most recent 3-year time period and a statement, for each facility, of the staffing-to-patient ratios. The ratios shall include only the number of direct care staff. The report shall also include detailed recommended administrative actions and matters for consideration by the General Assembly.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

(210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

(Section scheduled to be repealed on January 1, 2004)

Sec. 6.8. Program audit. The Auditor General shall conduct a biennial program audit of the office of the Inspector General in relation to the Inspector General's compliance with this Act. The audit shall specifically include the Inspector General's effectiveness in investigating reports of alleged neglect or abuse of residents in any facility operated by the Department of Human Services and in making recommendations for sanctions to the Departments of Human Services and Public Health. The Auditor General shall conduct the program audit according to the provisions of the Illinois State Auditing Act and shall report its findings to the General Assembly no later than January 1 of each odd-numbered year.

~~This Section is repealed on January 1, 2004.~~

(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.).

Section 15. The Nursing Home Care Act is amended by changing Sections 2-106 and 2-106.1 as follows:

(210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

Sec. 2-106. (a) For purposes of this Act, (i) a physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to a resident's body that the resident cannot remove easily and restricts freedom of movement or normal access to one's body. Devices used for positioning, including but not limited to bed rails, gait belts, and cushions, shall not be considered to be restraints for purposes of this Section; (ii) a chemical restraint is any drug used for discipline or convenience and not required to treat medical symptoms. The Department shall by rule, designate certain devices as restraints, including at least all those devices which have been determined to be restraints by the United States Department of Health and Human Services in interpretive guidelines issued for the purposes of administering Titles 18 and 19 of the Social Security Acts.

(b) Neither restraints nor confinements shall be employed for the purpose of punishment or for the convenience of any facility personnel. No restraints or confinements shall be employed except as ordered by a physician who documents the need for such restraints or confinements in the resident's clinical record. Each facility licensed under this Act must have a written policy to address the use of restraints and seclusion. The Department shall establish by rule the provisions that the policy must include, which, to the extent practicable, should be consistent with the requirements for participation in the federal Medicare program. Each policy shall include periodic review of the

use of restraints.

(c) A restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. A restraint may be used only for specific periods, if it is the least restrictive means necessary to attain and maintain the resident's highest practicable physical, mental or psychosocial well-being, including brief periods of time to provide necessary life-saving treatment. A restraint may be used only after consultation with appropriate health professionals, such as occupational or physical therapists, and a trial of less restrictive measures has led to the determination that the use of less restrictive measures would not attain or maintain the resident's highest practicable physical, mental or psychosocial well-being. However, if the resident needs emergency care, restraints may be used for brief periods to permit medical treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question.

(d) A restraint may be applied only by a person trained in the application of the particular type of restraint.

(e) Whenever a period of use of a restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the restraint. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the

circumstances of the restraint and whether further action is warranted.

(f) Whenever a restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others.

(g) The requirements of this Section are intended to control in any conflict with the requirements of Sections 1-126 and 2-108 of the Mental Health and Developmental Disabilities Code.

(Source: P.A. 88-413.)

(210 ILCS 45/2-106.1)

Sec. 2-106.1. Drug treatment.

(a) A resident shall not be given unnecessary drugs. An unnecessary drug is any drug used in an excessive dose, including in duplicative therapy; for excessive duration; without adequate monitoring; without adequate indications for its use; or in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. The Department shall adopt, by rule, the standards for unnecessary drugs contained in interpretive guidelines issued by the United States Department of Health and Human Services for the purposes of administering titles 18 and 19 of the Social Security Act.

(b) Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative. "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic, or antianxiety behavior modification or behavior management purposes in the latest editions of the AMA Drug Evaluations

or the Physician's Desk Reference.

(c) The requirements of this Section are intended to control in a conflict with the requirements of Sections 2-102 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental Disabilities Code with respect to the administration of psychotropic medication.

(Source: P.A. 88-413.)

Section 99. Effective date. This Section, Section 10, the changes to Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 of the Abused and Neglected Long Term Care Facility Residents Reporting Act, and the changes to Section 3-203 of the Nursing Home Care Act take effect upon becoming law.

INDEX

Statutes amended in order of appearance

SEE INDEX

20 ILCS 1705/4	from Ch. 91 1/2, par. 100-4
20 ILCS 1705/7	from Ch. 91 1/2, par. 100-7
20 ILCS 1705/15	from Ch. 91 1/2, par. 100-15
210 ILCS 30/6.2	from Ch. 111 1/2, par. 4166.2
210 ILCS 30/6.3	from Ch. 111 1/2, par. 4166.3
210 ILCS 30/6.4	from Ch. 111 1/2, par. 4166.4
210 ILCS 30/6.5	from Ch. 111 1/2, par. 4166.5
210 ILCS 30/6.6	from Ch. 111 1/2, par. 4166.6
210 ILCS 30/6.7	from Ch. 111 1/2, par. 4166.7
210 ILCS 30/6.8	from Ch. 111 1/2, par. 4166.8
210 ILCS 45/2-106	from Ch. 111 1/2, par. 4152-106
210 ILCS 45/2-106.1	
210 ILCS 85/6.20	
225 ILCS 65/5-10	